

# EXHIBIT C

## Esther Sung

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**From:** Ryan Walters <Ryan.Walters@oag.texas.gov>  
**Sent:** Wednesday, August 9, 2023 5:18 PM  
**To:** Esther Sung; Fudim, Elissa P. (CIV)  
**Cc:** Erez Reuveni; Ward, Brian C. (CIV); Ryan, Erin T. (CIV); Karen Tumlin; Monika Langarica; Vanessa Rivas; Jane Bentrott; Ryan Walters  
**Subject:** RE: TX v. DHS / CHNV - draft motion for leave to amend exhibit list / motion to extend time to object  
**Attachments:** RDW edits tracked Draft Motion for Leave to Amend Trial Exhibit List.docx

Esther, this looks good to us. Here is our signature block added... I have also added language (tracked) asking for a deadline for Plaintiffs to file any motion to exclude any of the added exhibits on the same day as our objections, and giving you a week after that (two days before pre-trial) to file any response.

I also wanted to flag that you refer to the "Individual Defendants" here instead of the Intervenor Defendants; obviously you can do what you want on that, but just wanted to note it as that has not how y'all have been doing it.

Thanks for drafting this!  
Ryan



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**From:** Esther Sung <Esther.Sung@justiceactioncenter.org>  
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**Subject:** TX v. DHS / CHNV - draft motion for leave to amend exhibit list / motion to extend time to object

Hi, Ryan and Elissa—

As promised, I am attaching a draft motion that would allow Intervenor Defendants to file an amended exhibit list and Plaintiff States 5 days to object to the newly added exhibits. Please let me know if the draft motion is acceptable to you. We hope to be able to button this up and file with the court tomorrow.

Also, Ryan, if the motion is acceptable to Plaintiff States, could you please either send me your signature block or drop it into the draft motion?

Thanks,

Esther

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

STATE OF TEXAS, *et al.*,  
Plaintiffs,

§        CIVIL ACTION No.

§ 6:23-CV-00007

§

§

VS.

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§ JUDGE DREW S. TIPTON

§

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY, *et al.*,

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§

*Defendants.*

**INDIVIDUAL DEFENDANTS' UNOPPOSED MOTION FOR LEAVE TO  
AMEND WITNESS AND EXHIBIT LIST AND JOINT MOTION TO EXTEND  
DEADLINE FOR PLAINTIFF STATES TO FILE OBJECTIONS**

Individual Defendants in the above-captioned action respectfully move for leave to file an Amended Witness and Exhibit List. Should the Court grant Individual Defendants' unopposed motion, Individual Defendants and Plaintiff States additionally jointly move to extend the deadline for Plaintiff States to file objections to Individual Defendants' Amended Witness and Exhibit List.

Under the Court's current Scheduling Order, ECF No. 159, Individual Defendants timely submitted their Witness and Exhibit List on August 2, 2023, ECF No. 207. Per the Court Procedures of this Court, Section No. 20(d), Plaintiff States timely filed objections to Individual Defendants' Witness and Exhibit List on August 4, 2023, ECF No. 210.

Individual Defendants now request leave 1) to add three additional exhibits that were inadvertently omitted from their August 2 Witness and Exhibit List; and

2) to add, for the sake of clarity for all Parties and the Court, the exhibits and declarations previously attached to Individual Defendants' Opposition to Plaintiff States' Motion for a Preliminary Injunction, ECF No. 175, which the Court's scheduling order, ECF No. 159, states "are admitted as authentic and without need of a sponsoring witness and are presumptively admitted as 'part of the trial record and need not be repeated at trial,'" and which Individual Defendants incorporated by reference in their Witness and Exhibit List, ECF No. 207. An Amended Witness and Exhibit List is attached as Exhibit A.

In addition, Individual Defendants and Plaintiff States move to extend to ~~August 14, 2023~~ the deadlines for (1) Plaintiff States to file objections to the exhibits added in Individual Defendants' Amended Witness and Exhibit List to August 14, 2023, (2) for Plaintiff States to file any motion to exclude evidence relating to any of the added exhibits to August 14, 2023, and (3) for Individual Defendants to file any response to any such motion to exclude evidence relating to the added exhibits to August 21, 2023.

Individual Defendants' motion is unopposed by the other parties, and the joint motion by Individual Defendants and Plaintiff States is unopposed by the Federal Defendants. Allowing the Individual Defendants to amend their exhibit list to add the additional exhibits would allow Individual Defendants to provide a more fulsome explication of the facts at trial, and would facilitate the court's and the parties' consideration of the exhibits at the August 23 pretrial conference and at trial. Allowing the Defendants an extended deadline to file objections to the additional

exhibits would further the interests of fairness as well as the court's consideration of the proffered exhibits.

For the above reasons, Individual Defendants respectfully request leave to amend their Witness and Exhibit List, and Individual Defendants and Plaintiff States jointly and respectfully request an extended deadline of August 14, 2023 to allow Plaintiff States to file objections to the exhibits added to Individual Defendants' Amended Witness and Exhibit List and move to exclude the same, and an extended deadline for Individual Defendants to August 21, 2023 to file any response to any such motion.

Dated: August 10, 2023

Respectfully submitted,

/s/ Esther H. Sung

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### **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing instrument was served via ECF pursuant to the Federal Rules of Civil Procedure on the 10th day of August 2023, upon all counsel of record in this matter.

/s/ Esther H. Sung  
Esther H. Sung